Mr. V. K. Aravindaksha Menon *(Chief Engineer)*:

(എ) മള്ളർ കായൽറോഡിലുള്ള കഴകം അടച്ചുകൊണ്ട് കൃഷിക്ക് നാശം വന്നിട്ടുണ്ടെന്നും മറ്റും കാണിച്ചുകൊണ്ടുള്ള ഹർജികളും ഗവൺമെണ്ടിനു കിട്ടിയിട്ടുണ്ട്.

(ബി) ഉവ്വ്. ഗവൺമെണ്ടിൽനിന്ന് അന്വേഷണങ്ങളും നടത്തുകയുണ്ടായി. ഹർജികളിൽ പറഞ്ഞിരുന്നതുപോലെ കഴകം അടച്ചുകൊണ്ടല്ല—അസാധാരണമായി അന്നുണ്ടായ അതിവൃഷ്ടിനിമിത്തമാണ് വയലുകൾ മുങ്ങിയതെന്നു മനസ്സിലാക്കി.

M. L. C. QUARTERS

152. Mr. V. J. Mathai *(Planters)*: Will Government be pleased to state.—

(*a*) are there any rules regarding the M. L. C.'s Quarters;

(*b*) who can all stay there;

(*c*) have the M. L. Cs. any rights there and if so, what are they;

(*d*) can any officer grant exemption from the rules, and if so, who is he;

(*e*) is it a fact that in January last an M. L. C. was asked to quit the M. L. C.'s Quarters to give room to certain Sepoys; if so, on whose orders?

Mr. V. K. Aravindaksha Menon *(Chief Engineer)*: (*a*) There are no special rules.

(*b*) When the building is not required by the Members of the Legislative Council it is used as Staff Quarters also.

(*c*) Preference is given to the M. L. Cs. for the occupation of the building and use of linen and crockery.

(*d*) No answer is necessary in view of the answer to (*a*).

(*e*) The quarters were arranged to be vacated to accommodate a Recruiting Officer and his party as it was reported to be occupied by private party at the time. But as soon as it was known that an M.L.C., Mr. V. J. Mathai, also was staying there at the time, instructions were immediately issued not to disturb him and he continued to stay.

GRANTING OF BAIL IN CRIMINAL COURTS

153. Mr. K. Narayana Menon *(Mulakunnathukavu)*: Will Government be pleased to state.—

(*a*) whether they are aware of the practice now obtaining in the Criminal Courts of the presiding officer seeking the permission of the charge officer before granting bail to the accused;

(*b*) if they are aware, will it please the Government to state whether this practice has the sanction or orders of Government in any form;

(*c*) whether they have issued any advice or instruction on this matter;

(*d*) do Government like to continue this or to stop this practice?

Mr. M. Sivarama Menon *(Advocate-General)*: (*a*) Under Rule 130A of the Defence of India Rules, the prosecution has to be given an opportunity to oppose applications for bail in cases falling under the Defence of India Rules and the orders issued thereunder. In other cases, the provisions of the Criminal Procedure Code are applicable in regard to bail applications. The permission of the charge officer is not necessary in any case. Government are not aware of the prevalence of any practice by which the criminal courts seek the permission of the charge officers before granting bail to accused persons.

(*b*) Does not arise.

(*c*) No. The judiciary is independent of the executive.

(*d*) In view of the answer above, this question does not call for any answer.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: In view of what is suggested in this question and in view of what has been explained at the time of the motion yesterday will the Government be pleased to kindly look into the matter, though your rules don't want this to be done, and if any such thing exists in the interests of the accused will that be modified.

Mr. M. Sivarama Menon *(Advocate-General)*: I do not think that any such practice can exist. No law can say that it is only with the permission of the prosecutor that an accused can be released on bail. I think the whole misconception arose on account of the word "permission". Under rule 138 of the Defence of India Rules the position is reversed. Under the Criminal Procedure Code you will find that the burden is upon the prosecution to show that the accused is prima-facie guilty. But under rule 138 the burden is upon the accused. No permission is necessary. I do not think that any court will seek the permission of the prosecution because that will be really abusing the functions of the court.

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Mr. P. P. Devassi *(Trichur-North)*: In view of the fact that the charge-officer may be one in Chittur and the accused may be arrested at a time when the District Magistrate is at Ernakulam and that the accused may be later on found to be innocent, the accused will have to be in jail for 2 or three days, cannot the Government do away with this rule?

Mr. M. Sivarama Menon *(Advocate-General)*: The Charge officer may record in the F. I. R. whether he has any objection or not to the accused being released on bail.

Mr. P. P. Devassy *(Trichur-North)*: May I know whether with the submission of the F.I.R. the charge also may be laid?

Mr. M. Sivarama Menon *(Advocate-General)*: It will not be possible in all cases to lay charge because further investigation will be necessary in some cases.

Mr. P. P. Devassi *(Trichur-North)*: Is it not a fact that in ordinary cases charge is laid along with the F.I.R.

Mr. M. Sivarama Menon *(Advocate-General)*: No. Not always.

Mr. A. B. Salem *(Mattancheri)*: May I know whether the executive has at any time made any remarks regarding punishments awarded?

Mr. M. Sivarama Menon *(Advocate-General)*: No. The executive cannot make any observation regarding punishments awarded by the judiciary.

Mr. A. B. Salem *(Mattancheri)*: Has any department made any remarks regarding punishments meted out?

Mr. M. Sivarama Menon *(Advocate-General)*: You mean by the executive?

Mr. A. B. Salem *(Mattancheri)*: Whether any Department has made any remark regarding the punishment being inadequate.

Mr. M. Sivarama Menon *(Advocate-General)*: In Calendar revision the District Magistrate can pass such remarks. The High Court can pass such remarks.

Mr. A. B. Salem *(Mattancheri)*: They are the judiciary. They are entitled to say many things. Has any other department done such a thing?

Mr. M. Sivarama Menon *(Advocate-General)*: No.

Mr. P. P. Devassi *(Trichur-North)*: Will the Government be pleased to order that hereafter at least an observation be made in the F.I.R. whether it is a case where the accused could be let on bail or not.

Mr. M. Sivarama Menon *(Advocate-General)*: That will be looked into.

Mr. A. B. Salem *(Mattancheri)*: May I know the reason why the burden of proof is on the accused in these cases?

Mr. M. Sivarama Menon *(Advocate-General)*: This is a British Indian Act made applicable to the State *mutatis mutandis* and it is an emergency piece of legislation enacted to meet an exceptional situation.

AMINS—REVISION OF SALARY, ETC.

154. Mr. V. J. Mathai *(Planters)*: Will Government be pleased to state whether considering the very responsible work of the amins and also their power for good and evil the Government will raise their status and salary?

Mr. M. Sivarama Menon *(Advocate-General)*: This is a question to be considered in a scheme of general revision of salaries. Government see no reason to consider the case of amins in particular.

NUMBER OF APPEALS AND REVISION CASES BEFORE THE HIGH COURT IN 1117

155. Mr. A. V. Moothedan *(Chalakkudi)*: Will Government be pleased to state.—

(*a*) the number of appeals and revision cases that came up for hearing before the High Court during the year 1117;

(*b*) how many were decided by the Full bench and Division Benches respectively;

(*c*) the number of cases in which leading judgments were written by each Judge;

(*d*) of these cases how many are reported in Cochin Law Reports?

Mr. M. Sivarama Menon *(Advocate-General)*:

(*a*)

Appeals	123	C. R. P.	170
2nd Appeals	166	Cr. Appeals	40
C. M. A.	41	Cr. Revision	23
		Total	563

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